

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

JANICE HARGROVE WARREN

PLAINTIFF

v.

No. 4:19-cv-00655-BSM

CHARLES MCNULTY, et al.

DEFENDANTS

**BRIEF IN SUPPORT OF DEFENDANTS' SECOND MOTION IN LIMINE
REGARDING PUNITIVE DAMAGES**

Defendants, by their attorneys, Bequette, Billingsley & Kees, P.A., respectfully submit this Brief in Support of their Second Motion in Limine Regarding Punitive Damages (“Motion”).

A motion in limine is an accepted procedural device in federal courts. All relevant evidence is admissible, except as otherwise provided by statute or by these rules or by other rules applicable in the courts of this state. Evidence which is not relevant is not admissible. Fed. R. Evid. 402. In the event the Court determines that the evidence complained of herein is relevant, then the evidence should be excluded on the basis of Fed. R. Evid. 403, which provides, in part, that evidence, although relevant, may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

For the reasons set forth herein, Plaintiff's reference to “punitive damages” or to “punish” Defendants should be excluded. Excluding such references through a motion in limine is appropriate when Plaintiff cannot present necessary evidence to prove punitive damages. *See Skibniewski v. Am. Home Prods. Corp.*, No. 99-0842-CV-W-FJG, 2004 U.S. Dist. LEXIS 31014 (W.D. Mo. Mar. 31, 2004)

All of the above items are not relevant to the issues of this claim or would otherwise only seek to impasse the emotions of the jury, having them rely upon their emotional response and not the evidence and Court's instructions. Furthermore, to the extent any of the aforementioned items are relevant, the risk of undue prejudice to Defendants greatly outweighs any potential relevance. *See* Fed. R. Evid. 401, 402 and 403.

Respectfully submitted,

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